IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE V.V.S.RAO

WRIT PETITION NO.355 OF 2004

Between:

Ali Bin Sayeed, S/o.Sayeed Bin Omer

R/o.18-11-200

Barkas, Hyderabad. **...PETITIONER**

And

The Regional Passport Office,

Near Clock Tower, Secunderabad

Rep. by the Passport Officer

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent to receive the application to consider for issuance of fresh passport with correct date of birth of the petitioner, as illegal, arbitrary, and violative of Article 14 of the Constitution of India, and consequently direct the respondent to receive the petitioner's application and consider for issuance of fresh passport with correct date of birth of the petitioner as 15.08.1975 as per the SSC.

Counsel for the Petitioner: MR. T.DAMODAR

Counsel for the Respondent: SRI A. RAJASEKHAR REDDY

(S.C. FOR CENTRAL GOVT.)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.355 OF 2004

ORDER:

The petitioner obtained passport from the office of respondent on 22.4.1991 in which the date of birth of the petitioner was shown as 16.7.1967. In March, 2001, the petitioner passed X Class (S.S.C.) conducted by the Board of Secondary Education, Andhra Pradesh, as private candidate in which his date of birth is shown as 15.8.1975. The petitioner alleges that after obtaining the passport on 22.4.1991 he approached the respondent for correction of date of birth based on SSC Certificate in vain. Again at the time of renewal of passport in November, 2000 his request for correction of date of birth as 15.8.1975 was allegedly refused. Therefore, he filed the present Writ Petition placing reliance on the Circular of Government of India No.VI/401/02/05/2001, dt.18.4.2001 seeking a direction to the respondent to receive

the application of petitioner and issue fresh passport with correct date of birth.

Though interlocutory application is listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard finally and is being disposed of.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case, the petitioner claims that he was born on 15.8.1975. He relies on SSC Certificate to prove that he was born on 15.8.1975. If the date of birth mentioned is correct at the time of obtaining passport in April, 1991, petitioner was a minor in which case he could not have by himself obtained a passport. But the petitioner obtained passport showing his date of birth as 16.7.1967, presumably by

misrepresenting the facts. Further, even when the petitioner applied renewal, he has not taken any steps for getting the date of birth corrected. In the absence of any material placed before this Court, the submission of the learned counsel for the petitioner that the petitioner approached the respondent for correction of date of birth at the time of renewal, cannot be accepted. Under the Passports Act, 1967, if a person obtains passport by playing fraud or misrepresentation, such a person is liable for prosecution.

The Writ Petition is therefore disposed of directing the respondent to consider the application of the petitioner for issuing of fresh passport keeping in view the observations made hereinabove, and pass appropriate orders in accordance with law. No costs.

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(V.V.S.RAO, J)

2.9.2004

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To

1. The Regional Passport Officer,

The Regional Passport Office, Near Clock Tower, Secunderabad

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